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SPEECH

OF

HON. WILLIAM SINGER, OF IOWA,

IN THE COUNCIL, ON THE

Amended

BILL TO PROVIDE FOR A NEW CONVENTION.

February 6, 1846.

1847

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SPEECH.

MR. PRESIDENT—

I am not unconscious of the inequality of the contest I engage in. I know that the odds are against me. With abilities, which I need not the very courteous gentleman from Racine to tell me, are but ordinary, with little experience in debate, I have to encounter gentlemen of acknowledged talent, much experience as debater, and who withal is cool, collected and wary, and on a subject in which all the feelings of his heart, the energies of his soul, and the stimulated purpose of fixed revenge and passion are concentrated. But Sir, unequal as the contest may be, I will not coward-like shrink from the engagement, though I have to augment my want of strength on an occasion and in an emergency from which greater powers might shrink with distrustful diffidence. Besides the advantages of talent and experience, the gentleman has all the advantage of matured deliberation, studied preparation, and well rehearsed argument. Never perhaps has there been an occasion in the life of the gentleman, of as deep and vital interest as the present one; an occasion which from the moment he left these halls, with a rebuked spirit, and an indignant heart, he has in the secret Basilica of his thoughts prayed for, and with all the means and appliances which an engorged determined purpose is too fruitful to devise, has sought to bring about. Yes sir, great and important as this occasion is, we are mainly indebted to the gentleman for it. It is his own legitimate offspring—the wished-for day of ringing forth after months of agonized travail. And let him hereafter, when the execrable offspring encounters him Death the child of Satan's wicked del-

liance with Sin encountered him at the thrice three-fold gates of Hell, not disown his true begotten. The rich fruit, the "golden opinions from all sorts of men" which may have been in expectancy, will be at their fruition like the fruit on the shores of the Asphaltades ashes and bitterness to the taste. Such, sir, is always the fruit which baffled ambition is doomed to partake of. I say baffled ambition, for to that, united with the unrelinquishable love of office, felt by a clique of incumbents may we attribute the manufactured agitation, and public opinion that has been trumpeted about these halls to frighten members into a support of this bill. And I do not know but it has had the desired effect; preposterous as it may seem that men who in the catalogue go for statesmen of intelligence and honesty should come here to act, to legislate upon the Constitution, of which the sovereign people are the only arbiters, when too they are no fresher from the people, and no better qualified than the very men who were commissioned for this work. That instrument is to be tried by a jury of the people; let it have a fair trial, unbiassed and unprejudiced. When the people to whom it is submitted will have expressed themselves, then sir, and not until then can we with fairness and impartiality entertain a bill providing for another Convention.

Gentlemen may deny a design prejudicial to the Constitution; but sir, I know it was introduced with other preparatory measures, without these walls, by the implacable enemies of the Constitution, for the purpose of withdrawing from it, so far as these influences extended, the support of the democratic party. Their denial of their design only makes their

conduct more deserving of reprehension, as insidious, and I may add with perfect justness, assassin-like. What, I would ask would be thought of that individual, who when another had been arrested for an alleged offence, would, without waiting for conviction by a jury of the offender's peers, break open the prison doors and with an uplifted dagger, drive it to the hilt into the prisoner's heart? Would he not be a foul, cowardly and accursed assassin. But there are other considerations which should make every democrat frown upon this bill; considerations which *force* themselves upon me, from a knowledge of the circumstances, motives and influences in which it originated. Sir, I am bold to say that had not certain ambitious spirits been repulsed in their high pretensions at the Convention, this threatening occasion would have been spared us. But repulsed they were, aye prostrated by that very Constitution; from that time their only study has been revenge, and nothing but the sacrifice of the Constitution will satiate their vengeance.

Like the rebel arch angel who "by lies drew the third part of the host of Heaven" after him, they, vain and impotent creatures think to draw part of the democratic host after them. But I trust they cannot "seduce them to that foul revolt."

Prominent whigs have been addressed throughout the Territory, and urged by the authors of this measure to make the adoption or rejection of the constitution a party question, with the assurance that if they did, enough of democrats will join them to defeat that instrument. Accordingly printed petitions from whig presses have flooded the Territory, and letters are pouring in hourly here, the most discouraging in their intelligence to the friends of the constitution. But sir, we understand all this; we have had a triumphant refutation of some of these letters: their intelligence is false, *manufactured* for the occasion, to operate here on us—to induce us to do that which under any circumstances we ought not to do, and which under the existing circumstances we would be most culpable in doing.

It was not my expectation when I came

here to take any decided action in regard to the Constitution; much less did I expect to become so public and determined a champion of it as I have felt it my duty to be on this occasion. All my efforts have been directed, since I have observed the secret plottings, and selfish as well as malignant designs of those who would rule or ruin, to counteract their plans, to resist their arrogant dictation, and prevent as far as I could other members from being drawn into the maelstrom of their dangerous influence. To make the constitution a party measure has never been my wish, either within or without these walls, however I may be represented by "Roorback" letters. It has been my desire to leave the people to their own choice of action upon it. But sir, a crusade has been determined upon against it, by political desperadoes, to recover from their prostration, and regain their former power, and abolitionism, bankism and federal whiggery have been invoked to join in the cause.

From this angry and determined war which has been declared against the constitution, by the whigs, not as a party, but by certain whig leaders, abolitionists and democrats, from their own selfish and in some cases wicked designs, we would be guilty of a pernicious act of public injustice in passing this bill.

Does any gentleman honestly believe that from what has transpired, the passage of this bill would not be prejudicial to the constitution? It would virtually sanction the opposition which has been conjured up against that instrument, and be approbative of the conduct of those who have *manufactured* that opposition. And more, sir, it would serve as a sustaining prop to bolster up the falling ambitious individuals who in their very desperateness of feeling, would like Sampson of old, pull down the pillars of the party as they fell.

I for one will not countenance them in their wicked resolve. And while I would leave to every democrat freedom of action in regard to the constitution, will not by my own act contribute to prejudice public sentiment upon it. But there are other considerations which have their weight with me, to which

will advert in the course of my remarks.

Another word in regard to the designs of these individuals to whom I have alluded. The success of their plans—the rejection or adoption of the constitution is with them a question of life or death *politically*. Hence their desperation.—As democrats, which shall we extend to them? Shall we abandon the constitution to the mercy of its opponents, or shall we fly to the aid of drowning politicians, whose cry is now “help me Cassius, or I sink.”

Let them sink, they have merited their fate. I at least will not extend a hand to bear them out of the swelling tide, the “chafing Tiber,” in which they thought to submerge the constitution, but in which they themselves are engulfing.

I am sorry that such should be their fate. I regret that they should have provoked the fate, for some of them have held no mean degree in public estimation. I can exclaim over them somewhat in the language of Prince Harry over the fallen Falstaff, “we could have better spared better men.”

Through the machinations of these men the Constitution has been made a party measure with the friends of that instrument; it has been *forced* upon them by an organized opposition. To this opposition, a part of which manifested itself by the whig press before an article of the constitution was adopted by the convention, the baffled individuals I have alluded to, of our own party have greatly contributed. But I think these revolting spirits have miscalculated their strength. A few may be drawn along in the car of their influence; the party may indeed suffer temporary loss and injury; the commingled waves of abolitionism, whiggery, and recreant democracy may toss and endanger for a season the ark of our political safety, but never, never, can they overwhelm it with their weltering wave of ruin. No, as the waves of ruin rise, the democracy, if there is truth in the history of the past, or virtue in man, will, by the blessings of Heaven, rise above them still. Sir, our principles are a living element, and those who think to gain power, by their sacrifice will have a short-lived triumph. A political con-

vulsion is what these men desire, and they will trust to it to heave them above the surrounding mass. With such a desire their province is to agitate, agitate, agitate. With such spirits, it is idle and useless to reason, except through their fears; and let me admonish them there is much reason for them to fear. I will refer them to our party's history where the fate of their prototypes is recorded in more than one page of it. Yet these men profess an exclusive regard for justice, morality, and the interests of the dear people—the hackneyed pretext of those who would rule or ruin.

“Ye shall be as Gods,” was the promise of the arch deceiver when he would have thwarted the purposes of high Heaven, by betraying a world. I would not be understood to say there are no honest objections on the part of the democracy to the constitution, but I will assert that it was so generally received, as it was formed, in the spirit of compromise, that no one can believe there would have been an *organized* opposition to it, if it had not been for the machinations of certain baffled politicians, leagued with the abolitionists and bankites.

And now, sir, a word for the benefit of the west. To that portion of the Territory I would say trust not to another convention; for there is in the very nature of this opposition all the elements of hostile discord which you would deprecate, and which never would be arrayed against the constitution, were not the hope strong within them, that their doctrines and principles would prevail in another convention: doctrines and principles which I know are abhorrent to you.

In this agitated measure, the abolitionists have moved in solid phalanx; and for what? That they might in another convention secure the right of suffrage to the negro. This they look forward to, with a *reasonable* hope, for they are too conscious that in many of the eastern counties they hold the balance of power. And I too well know, and the people of the west too well know, the fanatical character of abolitionists to doubt for a moment, that the balance of power which they possess will be idle in their hands. No! that power will be exercised, and it

will be acknowledged, and no person from those counties will obtain a seat in another convention who will not swear to support negro suffrage. I for one when that day arrives, will be prepared to take my final leave of Wisconsin. I will not live in a State, the fundamental law of which sanctions the views of these fanatical and incendiary associations.— Nor will I ever acknowledge the equality of that race whom the God of nature, habit and opinion have made a distinct and an inferior race.

No! As I love Wisconsin, I pray to God she may never know the degradation of taking a place in the brilliant galaxy of the Union a black and lustreless star, emitting no light, shedding no brightness, and imparting or receiving no glad illumination from the planets that surround her in the constellated expanse of our confederate firmament.

Regarding the Bank-article as peculiarly conservative of western interests, I cannot with my knowledge of the sentiments of gentlemen of this and the other House, and the fact that the friends of banking monopolies, and the supple tools of the Milwaukee rag money machine, are among the most zealous opponents of the constitution, hazard this article to another convention. There is no use to attempt disguising their opposition to the whole article, by saying the 6th section is only objectionable. No, the objection is to the whole article. Such an objection has been declared by honorable gentlemen calling themselves democrats. I supposed that if there was a question on which the democracy was settled and unanimous, it was on that of banking privileges. I maintain that opposition to such institutions is a part of the democratic creed; and that an advocate of banking corporations could no more consistently claim to be a democrat, than a believer in Mahomet's Koran could with truth call himself a christian. There is a deep grounded opposition in the west both with whigs and democrats to the creation of banks. They are firm in their conviction that the business of banking is radically dishonest. We have had a sufficient trial to convince us that it is not congenial to our climate or soil. We have had it too well démon-

strated to us that specie will be expelled by filling the channels of circulation with the paper of banks, and that the taking of depreciated paper in all our transactions is the necessity to which they reduce us. The democracy of the west believe that banking is wrong in the abstract, dangerously repugnant to the spirit of our republican institutions. And lightly as it may be considered by some, yet pressing indeed must be the public necessity, and startling the occasion, to justify the conferment upon individuals or bodies of men, of privileges that are at war with the common rights of all.

It has been said that a change from paper to a metallic currency will be productive of great inconvenience; but I do not apprehend so. The change was effected in my district without any inconvenient results, notwithstanding its inconvenience, and depreciation of the price of one great product was predicted by some gentleman there as inevitable consequence. No people but an unproductive people require banks; they are better adopted to the non-producing Indians than they are to a civilized, producing and manufacturing community. In proportion to the increase of our productiveness, will our exchanges be made in products, and the amount of money required to accomplish exchanges be diminished. The increased importation of specie into our State must always be of a correspondent amount with the exportation of domestic products. There is no use in saying that there is not gold and silver enough in this country for the purposes of trade; our exports will bring them to us if we desire it, whilst bank paper is permitted to circulate among us. so long will the precious metals cease to circulate. Specie and paper money will not circulate in the same channel. Mr. President, it is hardly follow the gentleman in his meandering discourse. Even the 6th section of the Bank article has not escaped him; it makes it one of the great objections which are to defeat the Constitution, and yet the gentlemen sought and voted for it in the convention. Is this ingenuous does it come with a good grace from the gentleman? But I will proceed to the article on the rights of married women

against which the gentleman has directed his heaviest battery. He has said it is inconsistent with the civil and common law. Sir, I deny it. It is a settled principle in the common law of England, that by the intermarriage the husband acquires a freehold interest during the *joint* lives of himself and wife, in all such freehold property of inheritance, as she was seized of at that time, or may become so during the coverture. But he only enjoyed rents and profits, and in case of issue born alive, so far as respected particular estates by the wife, he became tenant by courtesy, after her death. He could not alienate her real estate, neither was he entitled to her personal property, except so far only as he had reduced such property into possession—Roper 169. These were parts of the common law founded on the feudal system, and which in many respects had totally altered the civil law. But even under this extension of the feudal law, if the husband was *attainted* of felony, the King did not acquire the freehold of the wife, *it remaining in her*; but only the profits during coverture, and on the other hand if the *wife* was *attainted* of felony, the King or feudal lord took the freehold of the wife by escheat—Roper vol. 1, p. 3, 53, and 169. In order to render the effect of the feudal less injurious to the rights of the wife, the whole current of legal decisions was constantly set towards the protection of herself and her offspring, in regard to her real and personal chattels, not alienated or disturbed by the husband during coverture—Roper, vol. 2, p. 151. And in order still further to secure the wife in the enjoyment of her *separate property*, the system of marriage settlements was devised, and the estates real and personal of the wife are to this day in England in ninety-nine cases in a hundred, protected for her sole and separate use, and for the benefit of the younger children, in cases where the oldest son, or daughter would inherit the estate of the father or mother according to the nature of the estate under the feudal law. Hence, we observe that even by the common law of England a necessary protection was sought to be thrown around the *property of the woman* on her

marriage, both by positive decisions, legal constructions, and by the system of marriage settlements. But how is it in our own country? With all the common law of England except where altered and completely changed by the statutory law in the several States, the rights of the wife are less protected than in England. The wife in this country may be possessed before marriage of much and valuable real estate. She may acquire by gift or devise much more after her marriage, she has no protection against the persuasion of an unjust husband. She may be induced to join him in a deed; and a petty justice of the peace may take her *acknowledgement separate and apart from her husband*, which is her only futile and flimsy protection, and by a dash of her pen in one moment, she may impoverish herself and beggar her offspring. The article in the Constitution is meant for her protection, and does not prevent the exercise by the husband of all his marital rights over her property during coverture. The rents, issues and profits will enure to his benefit; even his creditors may be paid by him out of the profits of his wife's property, but the realty remains protected for the use of the wife and her heirs, unsubjected to the inhumanity of a reckless husband, as well as the rapacity of his creditors. And what is this article which the gentleman from Racine regards as such a dangerous innovation as will unsettle the usages of ages, destroy the established order of society, and produce confusion the most chaotic in our courts of law? Sir, it is not new in the history of laws or of rights.—It is but restoring the civil law in place of the common law, and can hardly be said to conflict with the laws of England at the present day, and the usages which have sprung up in England in regard to marriage settlements. For the civil law on the subject I will refer the gentleman to Justinian's Institutions—Lib. II., Tit. VIII., page 37, which perhaps it may be well enough to read: "It sometimes happens that the proprietor of a thing cannot alienate it: for example, by the law Julia an husband is prohibited to make an alienation of lands which came to him in right of his wife,

unless his wife consents to the alienation; and yet every man is deemed the proprietor of whatever is given to him as a marriage portion. But in this respect we have improved on the law Julia, and brought it into a better state: although it inhibits the husband to make a mortgage of such possessions, even with the consent of his wife, yet it permits him, with the consent of his wife, to make an alienation; we have therefore provided a remedy by our imperial authority, so that now no husband can either mortgage or alien, even with the consent of his wife, any immovable possession, whether provincial or Italian, obtained with her as a marriage portion; and we have been induced to make these regulations lest the frailty of woman should occasion the ruin of their fortunes."

This right of separate property in the wife was not limited to the possessions obtained with her as a marriage portion; for she was permitted by their most ancient laws to augment her separate possessions *post nuptias*, that is after marriage. What reason, I would ask, is shown for abiding by the feudal laws of England in preference to a recurrence to the civil law? It said that we disturb the settled usages of centuries; it is not so. There has been, it is true a system growing up in England since the Norman conquest which relieves the wife from any disastrous consequences as to her property which she sustained by the feudal law; and in following this system up in our free country we are only rendering more protection to woman's rights than barbarous laws have afforded her. We seek to restore her to her rights under the civil law. We have for nearly two centuries been legislating for man—for ourselves. Let us at last begin to legislate for woman, who has equal rights with man, and only such protection in her property as he in his cupidity and assumed power, and *legalized* authority, that is *legalized by himself*, has thought proper to grant to her. But hold, cries the gentleman from Racine, as you value all that is beautiful and estimable in female character, withhold from woman equal rights and equal property, if you would not

unsex her, cheapen the priceless jewel of character, make her a wanton and paramour, drive her into the sinks of pollution, unfit her for the domestic relations of life, chill her sympathies and blast all those tender and genial influences by which, after the turmoil and harassment of political strife and business, she allays man's perturbation of mind, soothes his fretted spirit, and smooths the wrinkled front of care. In short, this law will, in the language of the pious Watts, "poison life's stage, and paint damnation gay." Yes, sir, in the morbid apprehension of the gentleman it will make Wisconsin the Corinth of the world—the fertile soil of harlotry. That is all idle and silly declamation.—Where is his argument? Wherein can he show to you that such consequences would result from the inevitable operations of this article of the constitution? He has not adduced any thing like reason, argument, or common sense in support of his declarations. His declarations stand forth in naked absurdity and deformity, without even the gossamer of sophistry to veil their nudity.

I was not surprised, Mr President, to hear such an unfavorable estimate of the female character made, after listening to the libellous opinions on human nature advanced by the gentleman when commenting upon the judiciary article.

Thank God! I cannot think so abjectly of human nature; it may be that I am ignorant of what it is; but if I be, then "ignorance is bliss." Will securing a wife in her separate property, and providing against that destitution of herself and daughters, which the recklessness and dissolute conduct of her husband may bring upon them, be productive of such disastrous and melancholy results as the gentleman has predicted? He who knows and has a heart to feel the misery and want that throngs our crowded cities, and how often that misery and want are visited upon families by the wicked conduct of an abandoned husband, certainly could not oppose such a humane interposition of legal protection. The frugality and maternal care of mothers would often, if protected in property, provide against the penury and want which profligate husbands af-

diet their offspring with. Many a fair daughter, the pride and joy of the family circle, ere the clouds of adversity un-
lapped their deluge upon that once happy circle, has been driven in the wild-
ness of that despair which penury, un-
merited desertion, and uncomfor-
ted affliction will produce, into the receptacle
of prostituted virtue, who, if the father
had not squandered the property of
her mother, might have been an orna-
ment to society, a ministering angel of
delight, irradiating the sombre path of
man's life with the happy sunshine ray
of a pure devoted heart's affection. But
says the gentleman, France, where a
similar protection guards the separate
property of the wife, is a melancholy
example of the effects of such a law
upon the female character. And with
evident triumph he instances the incon-
tinence and meretriciousness of the wo-
men of Paris, and the great bastardy
which we all know that city is unparal-
lled in. Sir, I think there are other
assignable causes for the moral depravi-
ty and prostitution in that city. The
crowded city of New York with her
thousand tempting allurements of dissi-
pation and licentiousness, when compar-
ed for morality and chastity with one of
our small inland towns might perhaps
furnish a satisfactory solution. How
much is London behind Paris in such
prostitution? But little I will venture
to assert. No, sir, the incontinence of
the women of Paris cannot justly be at-
tributed to the effect which the law of
separate property has produced. Its le-
gitimate effect will be to elevate the
character of woman, and fortify her
against the unfortunate causes which
have impelled too many of her sex into
a life of abandonment. In support of
my assertion, and in refutation of the
declarations made by the gentleman, I
will instance Rome where the civil law
prevailed, which I have read, and where
incontinency or breaches of chastity
were not known for five hundred years.
To the rights she enjoyed when she
maintained the most spotless character
for virtue do we now seek to restore wo-
man; and in doing this we attempt noth-
ing new, nor do we disturb the settled
usages of centuries.

Look at the whole continent of Eu-
rope. In how many countries does the
civil law exist as the basis of all their
separate codes? The answer is, in all!
Look at the islands of Europe;—where
does the feudal law, or its offspring, the
common law of England, flourish? The
answer is, in Great Britain only. As to
frauds to arise out of the effect of such
an article, they are the offspring of a
fearful imagination. The gentleman
evinced more than ordinary ability upon
the subject of frauds. I will give him
credit for a greater display of that kind
of cunning and ingenuity in the perpe-
tration of fraud than I ever before wit-
nessed in any *honorable gentleman*. Tra-
ly, he acquitted himself in a manner
that would have delighted, if not in-
structed, even those who have won pub-
lic distinction in the intricate and pro-
found science of frauds. While he was
informing us upon the practical applica-
bility of the principles of that science
in the various branches of trade, I was
forcibly reminded of an incident which
took place in my native State quite a
number of years ago. It was at a time
when the south-western and western
merchants traveled on horseback to and
from Philadelphia, where they purchas-
ed most of their goods. One of these
gentlemen, a Kentucky merchant, with
his saddlebags, as was then customary,
was descending the Allegany on the
west side, when he was overtaken by a
fellow-traveler similarly accoutred, who,
after some enquiries which elicited the
information from the Kentuckian that he
was a merchant, expressed his surprise
that he should travel alone when robber-
ies were of such frequent recurrence.—
The Kentuckian told him he didn't think
there was much danger in day time, be-
sides he was well armed. These were
no considerations with his new compan-
ion, who went on to tell him various
ways in which he might be successfully
robbed, when the Kentuckian drew forth
a pistol, and suddenly turning upon the
gentleman with it levelled at him, told
him to be "off, for none but a d—d thief
could give such information."

But to return; can frauds not be com-
mitted daily under any laws which ever
were promulgated? Can any legislator

guard against the infraction of his law? Are there not doors already open by which individuals have already parted with their property to other persons, and even now enjoy the benefit of it?—Do not such things occur every day?—Let the gentleman from Racine with all his *legal* and *personal* experience answer the question.

The Bible has been resorted to by the gentleman from Racine as authority, sacred authority, conclusive against the right of separate property in the wife. I too remember of something about the separate property of woman in that book. The gentleman was unfortunate in his reference to the Bible. Why, sir, it informs us that when God gave a theocracy to the Jews, he established by command the right of inheritance in the woman. He commanded Moses in the 9th verse of the 27th chap. of Numbers to “speak unto the children of Israel, saying if a man die, and have no son, then he shall cause his inheritance to pass unto his daughter.” And he also ordained that the inheritance of Telothehad should pass unto his daughters. In Numbers, 36th chapter, women having inheritances are commanded to marry into their own tribe, to save the inheritance on the reversion of Jubilee; and in the same chapter it is said that the daughters of Telothehad married the sons of Manasseh, and their inheritance remained in the tribe of their father.—This inheritance fell and was confirmed unto them after they were married as will be seen by referring to the 17th chapter, 3d verse of Joshua.

Was woman transferred from her appropriate sphere, taken away from her children, her fine sensibilities blunted, and her every trait of loveliness blotted out by this divine law? Yet such are to be the sure pernicious effects of the law in the opinion of the gentleman from Racine. I have no doubt if Omnipotent wisdom were here in the capitol of Wisconsin, the commandments delivered “on the plains of Moab” would be revoked, Is there any thing in the character of woman, as delineated by the gentleman to admire? Prone to astray and to prostitution as smoke is to rise, there is nothing that restrains her within her proper

sphere, or preserves her chastity from pollution’s soiling embrace but the husband’s absolute control over her property. What an argument!

The section on exemptions from forced sales was next animadverted upon by the gentleman from Racine. And in this his optics are equally keen in discovering fraud; his mind appears to be peculiarly given to fraudulent conjectures. Could a law be framed in which the gentleman could not spy out some avenue to fraud under it? It might be he could devise such a law *himself*, on the principle that convicts make the strictest jailors. The friends of the exemption claim that it is based upon the self-evident and just propositions that all men should have an equal and undevisable right to the soil as well as to the elements of air and water; that he should be protected in the former to the amount that is necessary to the subsistence of himself and family. They hold that he should be entitled to a home which no law can deprive him of. Every man must have a home somewhere, and if you take away from him his homestead, he is thrown upon the community, to be furnished at the expense of the community with a home. The gentleman’s legal discrimination enables him to discover inducements to fraud in this section which are not discernable to me. I perceive in it a good intent, a benevolent design, and a principle of human justice, which it will be the duty of the legislator to exemplify and carry out in his enactments upon this fundamental law. And I perceive in the future its beneficent effects, an independent people, a landed democracy, superior to want, the population of our vast prairies and forests. And when the time comes when other portions of our country will be densely crowded with homeless starving millions, from whom will ascend the cry of bread, which now comes across the Atlantic, Wisconsin will exhibit a proud example of legislative philanthropy, in a people prosperous and happy in the security of homes that will always afford them the means of subsistence. The time will not come in this or the next generation, but unless provided against, it will surely come.

The opinion of one of the Judges of

the Supreme Court is, "that the adoption of this section repeals all laws and prevents all further legislation upon the subject of exemptions." Others may entertain whatever respect they please for the honorable Judges opinion, but sir, I am free to say that in my humble judgment his opinion on constitutional law is not entitled to respect.

A rule laid down by Story for the construction of constitutional law to the effect that "the expression of one thing is the exclusion of another," it is asserted will prevent the exemption of personal property by the Legislature. These gentlemen only give a part of the maxim laid down by that eminent jurist, which they isolate from the learned author's exposition, and are guilty of an ingenious application to the subversion of the text, and the objects of the instrument, as the same author says is too frequently done. He instances one of "the subversions of the text," as follows: "Thus it was objected to the Constitution, that, having provided for the trial by jury in criminal cases, there was an implied exclusion of civil cases."

If there is any one principle I heartily desired to see in the Constitution it was that of an elective judiciary. We have triumphantly solved the question of self-government. We have made sure that every other department of the government will be administered for the *benefit* of the *people* by making the *people* themselves the rulers and their public servants immediately accountable to them. Why should we retain the relic of federal doctrine? "The people cannot have the means of knowing who will make the best judge," is met in refutation by the practicability and success of the elective principle in every other branch of government. The same distrust of the people, the same insulting estimate of their intelligence and honesty entertained by the Federalists of old seems to possess the gentleman's mind on this subject. Indeed, there is a vein of federalism, not an under current, but a bold, apparent upper current, coursing in turbid slowness throughout the whole extent of his remarks. It would have been happily in place in the Hartford Convention, and would have suspended counsel, and "tak-

en with ravishment the thronging audience."

What pertinence was there in the gentleman's allusion to Greece and Poland, unless to decry and cast the contempt of ridicule upon democratic governments?—Why instance Poland in the manner he did but to demonstrate to us the chimera, the fatal fallacy of a government insecurely based—because based, as the gentleman would have it, upon the uncertain, changeable and shifting sands of popular will. The gentleman evinces the same mistaken opinion of the intelligence of this honorable body which he entertains of the intelligence of the people, in adducing unfortunate Poland as an example to admonish us against committing the fatal error of giving to the people the full and free privilege of the elective franchise. I have to inform the gentleman that Poland did not recognize in her government the simple principle which obtains here, that the majority shall govern. Far otherwise was it with Poland, though she aimed at freedom, for there the minority by a negative power governed; any one member negated the declared will of all the rest of the country.

Sir, the argument used here against an elective Judiciary will apply with equal force against every elective office. It is such an argument as I have heard monarchists of the old world use against an elective chief executive, and in favor of an hereditary supreme magistracy who being independent of popular will, free from party bias, and acknowledging no accountability to the people, would be unawed in the performance of his duty by those considerations which influence and corrupt an elective Chief Magistrate. Judges will not have the opportunity for favoritism, and the corrupt exercise of power which most all our other political officers possess in the appointing and removing power. In his official acts he will be under the scrutiny of legal gentleman, who if they are argus eyed as the gentleman from Racine in the detection of fraud and corruption, will surely expose and hold up to public execration as a judicial leper every functionary of the kind who will stain the ermine of his office with corruption. It is said that to be a judge is a trade; if

this assertion be true, its application is universal. I will admit that if fraud, corruption and intrigue are necessary to qualify an officer for the discharge of "complicated and responsible duties," then, sir, a continuance in office is eminently desirable. The gentleman says that New York adopted the elective system, but the reason was that she wanted a change. Most assuredly that was the reason; a change from an appointing system, which the gentleman admits was corrupting the State. This was the great object of the change, the organization of their powers and other details were but minor considerations. It is said that judges will be nominated by conventions, that those conventions will be the results of caucuses, and that the election of judges will be on party grounds.—Such I think will not be the case; but for argument sake that the candidates for judgeships will be the nominees of party conventions, will the present complexion of things be changed by it? Will any democratic administration, think you, appoint other than one of its own partizans to an office of important trust and power? or will a whig administration act upon a more magnanimous rule? Sir, the whole history of our government is against such a conclusion. And, sir, the appointments made by Governors are generally in pursuance of the expression of legislative caucuses; caucuses which for corruption, dishonesty, meanness, stealth and base intrigue transcend all that ever was conceived in primary caucuses. I speak from the record, and do not falsify it. And the choice of legislative caucuses is generally the reward of partizanship—the compensating equivalent for dirty and unprincipled services rendered some *honorable* legislator. What a heart must that man have who thinks so meanly of human nature, who regards the human breast as such a lazaret house of corruption, that proud and virtue principled men, as some weak fools have dreamed of, can no sooner be elected to office by the people than they will become very monsters of guilt and depravity. What does the gentleman judge from? Does he find within his own breast the premises for such conclusions? Sir, my observation of public men since

I have been here has taught me that a *long continuance* in office has the effect to corrupt the heart and extirpate from the mind every noble sentiment. Therefore am I pleased with the shortness of the term of office in the article on the judiciary.

The gentlemen disclaimed any knowledge of Mississippi, where it is said the elective system works very satisfactorily;—any knowledge, except that he had heard of Vicksburg, and yet in the same breath he pronounced them a very ignorant people and low in morals. I do know something of Mississippi, and I assert of the people of that State, that for general intelligence, morality, high-toned honor and the better attributes of our nature, they will not suffer by a comparison with even the gentleman's native State. It is true, Mississippi has her Vicksburg; but it is equally true that Massachusetts has her Charlestown. In the first place summary punishment was inflicted upon a gang of scoundrels: in the latter place a christian sect was mobbed, the temple of their devotion desecrated by the torch of incendiary citizens, and unoffending, pious divines and helpless females were driven from the flaming fane in which they had consecrated themselves to their God.

Another argument, (I don't know but I ought to beg pardon for calling any thing that has fallen from the gentleman argument,) but another assertion has been made against a judiciary elected by the people, that their capability cannot be judged of by the people. I will dispose of this objection by merely asking if the people have the means of judging of the official dignitaries appointed in pursuance of a legislative caucus, where everything is transacted by intrigue and dishonesty? And more, have they the power to rid themselves of unpopular and worthless incumbents when they have been thus imposed on them?

And now, Mr President, I will briefly notice the objection made by the gentleman from Milwaukee, (Mr. Wells) to the Constitution; and that is, the facility with which it can be changed. Such an objection, coming from the source it does, is really a good joke. Some philosopher of the human mind has said that persons

are apt to boast the most of qualities they do not possess, and to censure most unsparingly the fault and vices which they have the largest share of, and sir, if I am to judge from what has transpired on this floor, I must give in to the truth of the philosopher's remark. The gentleman from Milwaukee utterly repudiates the idea of adopting the Constitution with the expectation of amending it wherever it is defective. Sir, there is nothing to my mind so horrible in this—nothing which, to use his language, “strikes at the very essence of the Constitution.” I will inform the gentleman from Milwaukee that the Constitution of the United States, the palladium of our liberties, was ratified by republican Virginia with the express condition appended to her article of ratification, that the Constitution should be amended; and I will further inform him that it was amended, without “proving destruction to all the benefit to be derived from it. A constitution is not more likely to be changed because it provides an easy and cheap mode of changing it; on the contrary, those States that have a similar provision in their constitutions, have seldom changed them, whereas those States that have on the other hand aimed at making their fundamental law permanent by erecting strong and insurmountable barriers against the power of the people to change it, have altered and amended their constitutions the most frequently.—What the people are satisfied with they will not consent to change; what they are not satisfied with they will not consent to *until changed*. When they want to change their constitution, depend upon it they will do it, no matter what difficulties may be in the way, or how strong and high the barriers are that are enacted against them. Sir, I hurl back the imputation that the friends of the Constitution wish to make its adoption a party measure. Such is not the case; but sir, I assert, and I challenge contradiction, that its *opponents* desire, heartily desire, to make it a party measure. For this purpose they have written to whigs throughout the Territory, urging them, as I remarked before, to make the Constitution a party measure. I know that it has able and firm supporters in many of the most

consistent whigs. And it generally finds an enthusiastic advocate in every democrat who has the manliness and independence to rise superior to, and spurn the dictation of party leaders, and the insolent and corrupting power of sordid and self-aggrandizing office holders. I never have been the obsequious follower of any popular leader. I never have, nor will I ever submit to party drill. If there is a character I detest as contemptible above all others, it is the fawning sycophant, who “bends the supple hinges of his knee” at the footstool of power, or follows its beck clamorous in the performance of its behests, that “thrift may follow fawning.”

It is said that we rely upon the strong wish which is felt to become a State, for the adoption of the Constitution. No, we rely, confidently rely upon the genuine merits of the Constitution in the first place, and in the next place we have an equally firm reliance in the peoples' repugnance to the sentiments and principles entertained and avowed by the opponents of the Constitution. No one, I will confess, can be more anxious to see Wisconsin emerge from her territorial dependence, and take her station, a proud station, among the independent States of the confederate Union, than I am; but sir, I would rather be the sole means of deferring that time for ten years than have her apply at the door of Congress for admission with a constitution embracing the repugnant principles of its opponents.

Sir, I believe the people have now submitted to them the best Constitution ever devised by men. It is the result of philanthropic intentions, talented study and effort, and liberal compromise. That some of the objections to it are justly founded, I will not attempt to deny; for the system is human, and perfection belongs not to the works of man. Let it be remembered that serious objections were entertained by Jefferson and other eminent statesmen of that day to the Constitution of our common country, but did *they* repudiate it? No sir; they received and treated it as it was framed, in a spirit of conciliation and compromise; and far were they from *organizing an opposition* against it, because its authors had not made it wholly in accordance with their views. Theirs was the magnanimity of

great minds, which rise superior to selfish considerations, petty passion, or the plottings of ambition. It has been reserved for the more enlightened and patriotic statesmen of Wisconsin to pursue a different course.

I must, before I close, notice a remark which fell from the gentleman from Racine, (Mr. Strong) that "although whigs may vote for the Constitution, they will not afterwards vote for democratic nominations; and if the Constitution is rejected the party is overthrown." And yet sir, he is exerting every nerve, and using all the means which the revengeful feelings of thwarted ambition can suggest to effect the rejection of the Constitution and the consequent overthrow of the party, as he predicts. The gentleman may reconcile his course to himself, but as a democrat he cannot justify it unto others. And now, Mr. President, I have but to say in conclusion, that believing the Constitution to be eminently calculated to promote the best interests of the country, to protect the rights of all, to produce a just equalization of privileges, and to dispense

liberally and benignly the blessings of freedom, I shall at all times be found its firm advocate. Yes sir, I am willing to stake my political existence upon this cast, and "boldly stand the hazard of the die." And be my destiny what it may, I shall always look back to this determination with that proud satisfaction which a conscious knowledge of my moral and political rectitude will inspire. As a champion of human rights I desire no better banner to fight under than our Constitution. Its glorious principles will animate me in the struggle; and in its defence I will plant myself on the broad platform of democracy, there to stand firm and immovable as the mountains of my native State, whose feet are imbedded in the ponderous immobility of earth. As a parting word to my opponents I will say, that the criminations I have dealt in I have no desire to recal; and the severity I have indulged in, I have no wish to soften. They have made the lightning their couch, and they shall lie there flayed.